

# NEWSLETTER

## The Thai Cabinet approves Tax Relief Measures on Digital Assets and Startups

On March 8, 2022, the Thai Cabinet of the Royal Thai Government has approved in principle two different sets of tax measures.

The first set consists of *tax relief measures for digital asset trading*.

These tax relief measures target digital asset investors with the aim to further develop the digital asset industry and maintain the fairness of tax collection.

In particular, the tax relief measures provide that:

- for any transfer of cryptocurrency and digital tokens via digital asset exchanges approved by the Securities and Exchange Commission (“SEC”) and the Minister of Finance (“MOF”), VAT shall be exempted commencing from 1 April 2022 to 31 December 2023.
- for any transfer of cryptocurrency issued by the Bank of Thailand for public use in connection with the *cryptocurrency development and testing program* organized by the Bank of Thailand (“Retail Central Bank Digital Currency” or “Retail CBDC”), VAT is exempted commencing from 1 April 2022 (B.E. 2565) to 31 December 2023 (B.E. 2566).
- any losses occurred from the trading of cryptocurrency and digital tokens via digital asset exchanges approved by the SEC and the MOF can be offset against the profits incurred in the same tax year for the calculation of Personal Income Tax (“PIT”). This tax relief measure is retroactive and shall take effect as of 14 May 2018 (B.E. 2561), onwards.

The second and more consistent set of tax relief measures includes *tax relief measures to promote startup funding*. The cabinet approved in principle the Royal Decree issued under the “Revenue Code Regarding Exemption from Income Taxes”, as proposed by the MOF.

The tax relief measures consist of the exemption from PIT and Corporate Income Tax (“CIT”) on capital gains realized from the transfer of startup shares and unit trusts. The aim is to encourage the funding of startups, which will benefit the growth of the national economy.

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The Royal Decree prescribes a revision of tax privileges for funding of Startups, according to the type of funding:

- In case individuals, juristic persons registered in Thailand or juristic persons registered abroad make a **direct investment** in startups operating in the targeted industries, the investors will be exempted from PIT or CIT on capital gains derived from the sale of shares, as the case may be.

- In case the investment in startups operating in the targeted industries is **indirect**, it shall be considered as taking place via Corporate Venture Capital ("CVC") or Private Equity Trust ("PE Trust"), thus the following exemptions apply as the case may be:

- Thai and foreign CVCs and Foreign PE Trusts will be exempted from CIT on capital gains.
- Thai PE Trusts, are not subject to CIT.
- Thai and foreign investors who invest in CVCs will be exempted from PIT or CIT on capital gains derived from the sale of shares, as the case may be. Moreover, in case of dissolution of a Thai CVC they invested in, they will be exempted from PIT or CIT on benefits derived from the mentioned dissolution.
- Thai and foreign investors who invest in PE Trusts will be exempted from PIT or CIT on capital gains derived from the transfer of unit trusts. Moreover, in case of dissolution of a Thai PE Trust they invested in, they will be exempted from PIT and CIT on benefits derived from the mentioned dissolution.

Startups that receive funding must operate in the targeted industries as specified by the government. Such industries are listed under the National Competitiveness Enhancement for Targeted Industries Act, B.E 2560 ("NCETI"), some of which are next-generation automotive, intelligent electronics, advanced agriculture and biotechnology, high-value food for the future, automation and robotics, aviation, biofuel and biochemical, medical and comprehensive healthcare, defense, digital, human resource research and development. The targeted industries must be verified by the government agency, as prescribed by the Notification of the Director-General of the Revenue Department (e.g., National Science and Technology Development Agency, National Innovation Agency).



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To be eligible for tax exemptions and tax relief for funding of Startups, the following conditions also apply:

1. The startup receiving funds must realize at least 80% of the comprehensive income from the operations in the targeted industries in the two accounting periods preceding the sale of the shares.
2. Investors must hold shares or unit trusts for at least 24 months before selling.
3. Thai CVCs and PE Trusts must have a minimum capital of 20 million Thai Baht and must be registered with the SEC.

The tax exemption and relief measures will be effective from the day after the Royal Decree is published in the Government Gazette until 30 June 2032 (B.E. 2575).

Considering the relevant impact of the tax measures, we recommend investors be aware of any updates in the regulation. For any inquiries related to taxation on digital asset businesses or digital assets and related regulations, including Startup and investments regulation, please contact ILCT Ltd. via email at [law@ilct.co.th](mailto:law@ilct.co.th).

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